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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,378	09/21/2005	Ethan Vickery	VICE:005US	3385
33425 7590 02/18/2009 FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701				
EXAMINER				
ARK, DARREN W				
ART UNIT		PAPER NUMBER		
3643				
MAIL DATE		DELIVERY MODE		
02/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,378

Applicant(s)

VICKERY, ETHAN

Examiner

Darren W. Ark

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Election/Restrictions

1. Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/25/2007. The limitation "the receptacle having one or more integrally formed protrusions" is directed to non-elected Species VI represented by Fig. 5 which shows protrusions integrally formed with the receptacle. Elected Species IV represented by Fig. 3 discloses nut and bolt assemblies with washers which are not formed integrally with the receptacle since they are separate and discrete parts.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson et al. 6,807,768.

Johnson et al. discloses providing a plastic bait station (24 of plastic; eventhough Johnson et al. discloses a lid, the bait station is not being particularly claimed by applicant) having a bottom (generally 38) in which openings (openings defined between 40 & 38) are positioned; providing a receptacle (22) having protrusions (42, 44) configured to extend through the openings (when 42 received on 35; see Figs. 3, 6) in the bottom of the plastic bait station; placing pre-formed weighted material (26) in the receptacle; securing the plastic bait station to the receptacle (see Fig. 3), the securing including causing the protrusions of the receptacle to extend through the openings in the bottom of the plastic bait station.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crossen 6,513,283.

Crossen discloses a method of securing a bait station (128) comprising providing a plastic bait station having a bottom in which an opening (126) is positioned; providing a receptacle (120) having a protrusion (1/4 inch bolt) to extend through the opening; placing pre-formed weighted material in the receptacle (123; 123 is preformed in that it is formulated to be harder/more dense than periphery of 120; no particular method step

being recited) in the receptacle (120); securing the plastic bait station to the receptacle, the securing including causing the protrusions of the receptacle to extend through the opening in the bottom of the plastic bait station, but does not disclose the plastic bait station having a bottom with openings or a receptacle having protrusions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bait station such that it has a plurality of openings and the receptacle such that it has a plurality of protrusions, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, and because the utilization of a plurality of openings and protrusions would allow the connection between the bait station and receptacle to be stronger and more evenly held together. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

6. Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crossen 6,513,283 in view of Li 6,446,930.

Crossen does not disclose the plastic bait station having a bottom with openings or a receptacle having protrusions. Li discloses a cover (22) having a bottom with openings (38) and an inner weighed disk (26) having protrusions (36) secured to the openings by extending through the openings (see Fig. 1). It would have been obvious to a person of ordinary skill in the art to modify the plastic bait station and receptacle of Crossen such that they have openings and protrusions in view of Li in order to provide a plurality of attachment points for the bait station and receptacle to more evenly hold the separate bait station and receptacle together.

7. Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crossen 6,513,283 in view of Li 6,446,930 and Bartlett, Jr. 5,943,814 or Faucillon 4,486,973.

Crossen does not disclose the plastic bait station having a bottom with openings or a receptacle having protrusions. Li discloses a cover (22) having a bottom with openings (38) and an inner weighed disk (26) having protrusions (36) secured to the openings by extending through the openings (see Fig. 1). It would have been obvious to a person of ordinary skill in the art to modify the plastic bait station and receptacle of Crossen such that they have openings and protrusions in view of Li in order to provide a plurality of attachment points for the bait station and receptacle to more evenly hold the separate bait station and receptacle together.

Alternatively Crossen discloses preformed weighting material (120, 123), but does not disclose the receptacle or the step of placing pre-formed weighted material in the receptacle. Bartlett, Jr. discloses the receptacle (56 OR 1) having a cavity (see Fig. 3 OR 12) for holding a preformed weighting material (concrete OR concrete). It would have been obvious to one of ordinary skill in the art to modify the method of Crossen such that it has a receptacle and a step of placing pre-formed weighted material in the receptacle in view of Bartlett, Jr. or Faucillon in order to provide a receptacle which can be filled with any weighting material having the desired density as preferred by the user.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W. Ark/
Darren W. Ark
Primary Examiner
Art Unit 3643

DWA